By ALAIN SHERTER / MONEYWATCH / *September 22, 2010, 6:04 PM*

How Ally Financial "Robo-Signed" People's Homes Away

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The **Ally Financial** scandal highlights a fundamental error in how this country is dealing with the foreclosure crisis: While Wall Street banks are allowed to indefinitely put off recognizing mortgage-related losses, the legal machinery used to seize people's homes is on automatic pilot.

First, a brief synopsis. Ally, formerly known as **GMAC** and now one of the largest mortgage lenders in the U.S., appears to have been unlawfully "robo-signed" documents filed in foreclosure proceedings. The company was legally required to review the paperwork in detail to ensure it was legit and that lenders had sound legal reasons for taking a property. Trouble is, an Ally employee named **Jeffrey Stephan** admitted in several depositions that his office was approving these documents by the thousands without, you know, actually reading them. While many of these foreclosures may have been justified, many presumably were not. Either way, it's illegal.

That's why an Ally unit, **GMAC Mortgage**, immediately stopped foreclosures in 23 states after the Stephan news surfaced. And because Ally services loans for hundreds of mortgage lenders, including giants like **Fannie Mae** (FNMA), this could affect lots of foreclosures nationwide:

> **Christopher Immel**, an attorney for **Ice Legal**, a Florida foreclosure defense firm, said each and every foreclosure that relied on an affidavit signed by GMAC's Stephan is shrouded in doubt. "People who lost their homes to evidence like that did have their homes taken wrongly," he says.

Yet fallout from the case could be even bigger than that. *Mother Jones* reports that since the revelations about Ally, big banks involved in foreclosure cases in the Florida courts have been summarily withdrawing affidavits, a sign of their own doubts about the validity of the documentation.

No surprise there. As numerous consumer advocates and housing attorneys have told me, Ally's actions were common among loan servicers. Why? Because of the powerful financial incentives lenders and servicers have to foreclose, rather than to modify mortgages.

Stephan was approving up to 10,000 foreclosure documents per month. But the problem is less this vast caseload, as some media outlets are focusing on, than a legal and financial system that puts homeowners in default on their mortgages on rails toward foreclosure:

> "What GMAC has been doing with affidavits ... is no different from what anyone else has been doing in the mortgage servicing business," said **O. Max Gardner III**, a consumer bankruptcy attorney. "This is business as usual for the mortgage servicing industry. GMAC just got caught," he said.

In essence, Ally is the housing bubble's thorny tail swinging around to smack us in the face. During the boom, lenders passed out mortgages like M&Ms, often without verifying a borrower's most basic financial details. Big banks chopped up those loans, credit rating agencies blessed the resulting securities and investors gobbled them up. Party time! And the last thing anyone wanted to be told, as the profits rolled in, was that all that paper was worthless.

That same dynamic is visible as the bubble deflates. Stephan, a mid-level schlub in a big firm, rubber-stamped all those affidavits because Ally and the lenders it services have a financial interest in keeping the foreclosure train rolling. The problem for these firms is that this jury-rigged system is backing up like a clogged drain. Says banking analyst **Chris Whalen** of **Institutional Risk Analytics**:

> Banks are also increasingly choking on the sheer size of the flow of foreclosed properties, as evidenced by the announcement by Ally Financial.

Here's the kicker -- you and I own Ally. Under **TARP**, taxpayers in 2009 poured a total of more than $17 billion in the company when it still operated as GM's financing arm, GMAC. That gives us a majority stake in Ally, which is one of four companies -- along with **AIG**, **Chrysler** and **GM** -- that have yet to repay the loan.

It also makes Ally both a cause and an effect of our deeply dysfunctional lending market. Saved by taxpayers, the company screwed homeowners, and eventually itself.

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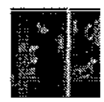
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